BOMBAY ACT No. XXIX OF 1952.[1]

[THE BOMBAY DRUGS (CONTROL) ACT, 1952]

[*3rd November 1952*]

Amended by Bom. 37 of 1954.

An Act to provide for the control of the possession, sale and use of certain drugs.

WHEREAS it is expedient to provide for the control of the possession, sale and use of certain drugs and for certain other purposes ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Drugs (Control) Act, 1952.

(*2*) It extends to the whole of the State of Bombay.

(*3*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, specify in this behalf.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

[2][(*a*) " dealer " means a licensed wholesaler or retailer;]

[3]* * * *

(*c*) " drug " means (*i*) a medicine for internal or external use of human beings or animals, or (*ii*) substances intended to be used for or in the treatment, mitigation or prevention of disease in human beings or animals,—to which medicine or substance this Act is declared to be applicable under sub-section (*1*) of section 3 ;

[4][(*c*1) " licensed retailer " means a retailer holding a licence under section 3A ;

(*c*2) " licensed wholesaler " means a wholesaler holding a licence under section 3A ;]

Bom. VI of 1912. Bom. XXVI of 1938. Bom. XLVIII of 1951. XVI of 1948. Bom. LXVIII of 1953.

(*d*) " medical practitioner " means a person registered under the Bombay Medical Act, 1912, or registered or entered on the list under the Bombay Medical Practitioners Act, 1938, or a person whose name is entered in Part-A or Part B of the register of practitioners maintained under the Bombay Homoeopathic Act, 1951 [5][and includes a person whose name is entered in Part A or Part B of the register of dentists maintained under the Dentists Act, 1948, and a veterinary practitioner whose name is entered in the register maintained under the Bombay Veterinary Practitioners Act, 1953] ;

(*e*) " notified drug " means a drug which has been notified by the State Government to be a notified drug under section 3 ;

[6][(*f*) " prescribed " means prescribed by rules made under this Act ;

(*g*) " retailer " means a person who carries on the business of selling any notified drugs otherwise than for the purpose of resale and does not include a medical practitioner ;

(*h*) " wholesaler " means a person who carries on the business of selling any notified drugs for the purpose of resale.]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1952, Part V, page 195.
[2] Clause (*a*) was substituted for the original by Bom. 37 of 1954, s. 2 (*1*).
[3] Clause (*b*) was deleted, *ibid.*, s. 2 (*2*).
[4] Clauses (*c*1) and (*c*2) were inserted, *ibid.*, s. 2 (*3*).
[5] This portion was added, *ibid.*, s. 2 (*4*).
[6] These clause were substituted for clause (*f*), *ibid.*, s. 2 (*5*).

(2) For the purposes of this Act, a person shall be deemed to be in possession of a drug, if he is in actual or constructive possession of the same and shall include a person on whose behalf or on account of whom another person is in custody of the drug.

Drugs to which this Act applies and notified drugs.

3. (1) The State Government may, by notification in the *Official Gazette*, declare any drug to be a drug to which this Act applies.

(2) If the State Government is satisfied that a drug is used in a manner injurious to health the State Government may, by notification in the *Official Gazette*, specify it as a notified drug.

Wholesale or retail business in drugs.

[1][**3A.** From such date as may be fixed by the State Government by notification in the *Official Gazette* in this behalf, no person shall carry on the business of a wholesaler or retailer or possess any notified drug for the purpose of such business except under and in accordance with the conditions of a licence granted by the Collector under this Act:

Provided that nothing in this section shall apply to the possession of any notified drug not exceeding such quantity as may be prescribed for the purposes of sample.

Sale of drugs by retailer and dispensing or sale by medical partictioner.

3B. No licensed retailer shall sell any notified drug unless such drug has been obtained by him from a licensed wholesaler, and no medical practitioner shall dispense or sell any notified drug unless such drug has been obtained by him from a licensed wholesaler or retailer.

General power of State Government in respect of licences.

3C. Notwithstanding anything contained in this Act or the rules made thereunder, the State Government may by general or special order—

(*a*) prescribe the number of places at which any notified drug specified in such order may be sold in any area;

(*b*) prescribe the procedure to be followed before granting any licence;

(*c*) specify the persons or classes of persons to whom licences under this Act may not be granted;

(*d*) issue such other instructions in any matter pertaining to the grant or otherwise of licences under this Act as it may deem proper.

Power to suspend or cancel licences.

3D. (1) The Collector may, after giving the holder of a licence granted, under this Act a reasonable opportunity of being heard, suspend his licence for such period as may be necessary or cancel the same,—

(*a*) if any fee payable by the holder thereof is not duly paid;

(*b*) in the event of any breach by the holder of such licence or by his servant or by any one acting with his express or implied permission on his behalf of any of the terms or conditions of such licence;

(*c*) if the holder thereof or any person in the employ of such holder or any person acting with his express or implied permission on his behalf is convicted of an offence under this Act, or if the holder of the licence is convicted of an offence under the Bombay Prohibition Act, 1949, the Dangerous Drugs Act, 1930 or the Drugs Act, 1940. Bom. XXV of 1949. II of 1930. XXIII of 1940.

(2) If the licence is suspended or cancelled for any reasons, the holder thereof shall not be entitled to any compensation for such suspension or cancellation or to the refund of any fee paid in respect thereof.

[1] Sections 3A, 3B, 3C, and 3D were inserted by Bom. 37 of 1954, s. 8.

(*3*) The Collector may refuse to grant a licence to any person if—

(*a*) the licence granted to such person has been suspended or cancelled, or

(*b*) such person has been convicted of any offence punishable under this Act or under the Bombay Prohibition Act, 1949, the Dangerous Drugs Act, 1930, or the Drugs Act, 1940.

Bom. XXV of 1949. II of 1930. XXIII of 1940.

(*4*) The Collector may also refuse to grant a licence to any firm of which such person is a partner or to any person to whom the business of such person has been transferred.]

Fixing of maximum quantities which may be held or sold.

4. (*1*) The State Government may, by notification in the *Official Gazette*, fix in respect of any notified drug—

(*a*) the maximum quantity which may at any one time [1][or during such period as may be specified in the notification be possessed by a licensed wholesaler or retailer].

(*b*) the maximum quantity which may in any one transaction be [2][sold by wholesale or retail] to any person.

(*2*) The State Government may also by notification in the *Official Gazette* specify the maximum quantity of a notified drug which a person in his individual capacity or as the head of a household may possess at any one time [3][or during such period as may be specified in the notification.]

Explanation.—For the purpose of this section a "household" shall mean a group of persons normally residing and messing jointly as the members of one domestic unit.

Medical practitioner and [5][licensed retailer] not to supply notified drug for purposes other than medicinal and except under prescription.

5. (*1*) A medical practitioner shall not supply any notified drug in his possession to any person for a purpose other than *bona fide* medicinal purpose and except under a prescription issued by him or another medical practitioner.

(*2*) [4][A licensed retailer] shall not supply any notified drug in his possession to any person for a purpose other than *bona fide* medicinal purpose and except on a prescription issued by a medical practitioner.

(*3*) Any prescription issued for the purposes of sub-section (*1*) or (*2*) or copies thereof and other records shall be maintained in such manner and preserved for such period as may be prescribed.

Limitation on quantity of any notified drug which may be possessed at any one time.

6. [6][No person other than a dealer or a medical practitioner] shall have in his possession at any one time a greater quantity of a notified drug than what is specified by notification issued under sub-section (*2*) of section 4.

Cash memorandum to be given of certain sales.

7. (*1*) Every dealer [7]* when selling any notified drug for cash shall give to the purchaser a cash memorandum containing particulars of the transaction.

(*2*) The State Government may, by notification in the *Official Gazette*, prescribe the particulars to be contained in any such cash memorandum.

Prohibition or regulation of the disposal of drugs.

8. If in the opinion of the State Government it is necessary or expedient so to do, it may, by order in writing—

(*a*) prohibit the disposal of any notified drug except in such circumstances and under such conditions as may be specified in the order;

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[1] These words were substituted for the words "be possessed by a dealer or producer" by Bom. 37 of 1954, s. 4 (*1*) (*a*).
[2] These words were substituted for the word "sold" *ibid*, s. 4 (*1*) (*b*).
[3] These words were added, *ibid*, s. 4 (*2*).
[4] These words were substituted for the words "A dispensary chemist" *ibid*, s. 5 (*1*).
[5] These words were substituted for the words "dispensing chemist" *ibid*, s. 5 (*2*).
[6] These words were substituted for original, *ibid*, s. 6.
[7] The words "or producer" were deleted, *ibid*, s. 7.

(*b*) direct the sale of any notified drug to any dealer or class of dealers and in such quantities as may be specified in the order;

and make such further orders as appear to it to be necessary or expedient in connection with any order issued under this section.

Evasion of provisions.

9. No person shall wilfully give any false information or refuse to give any information lawfully demanded from him under this Act or the rules thereunder or alter by cancellation or otherwise, destroy, mutilate or deface any book or other document.

Penalty.

10. (*1*) Whoever contravenes any of the provisions of this Act or of any rule, order or notification made or issued [1][or any condition of a licence granted] thereunder or fails to comply with any directions made under authority conferred by this Act, shall, on conviction, be punished—

(*i*) for a first offence, with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such [2][imprisonment shall not be less than three months and] fine shall not be less than five hundred rupees;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than one thousand rupees;

(*iii*) for a third and subsequent offences, with imprisonment for a term which may extend to three years and with fine which may extend to five thousand rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than one year and fine shall not be less than two thousand and five hundred rupees.

(*2*) A Court convicting any person of an offence punishable under this Act may order that the whole or any part of the stock of notified drugs in respect of which the offence was committed shall be forfeited to Government [3][and the receptacles, packages and coverings in which such drugs were found, and the other contents, if any, of such receptacles or packages shall likewise be liable to confiscation].

Magistrate's power to impose higher punishment.

11. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Presidency Magistrate or for a Magistrate of the First Class specially empowered by the State Government in this behalf to pass any sentence authorised under section 10, in excess of his powers under section 32 of the said Code. V of 1898.

Offences by corporations.

12. Where a person accused of an offence punishable under this Act is a company or an association or a body of persons, whether incorporated or not, every director, manager, secretary, agent or other officer or person actively associated with the management thereof, shall, unless he proves that the offence was committed without his knowledge or that he has exercised all due diligence to prevent its commission, be deemed to be guilty of such offence.

Inspectors and procedure.

13. (*1*) The State Government may, by notification in the *Official Gazette*, appoint such persons or officers as it thinks fit, to be Inspectors for the purposes of this Act within such local limits as it may assign to them respectively.

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[1] These words were inserted by Bom. 37 of 1954, s. 8 (*1*) (*a*).
[2] These words were inserted *ibid*, s. 8 (*1*) (*b*).
[3] These words were added, *ibid*, s. 8 (*2*).

(2) No person or officer below the rank of an Inspector appointed under sub-section (1) shall investigate any offence under this Act.

(3) No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Commissioner of Police in Greater Bombay and elsewhere of the District Magistrate.

Power to search and seizure.

14. Any person competent to investigate any offence under this Act may search any place in which he has reason to believe that an offence under this Act has been, or is being committed, and take possession of any stock of notified drugs in respect of which the offence has been or is being committed and the provisions of the Code of Criminal Procedure, 1898, shall so far as may be applicable, apply to any search or seizure under this Act as they apply to any search or seizure made under the authority of a warrant issued under section 98 of that Code.

V of 1898.

Protection of action taken in good faith.

15. No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act.

Delegation.

16. The State Government may, by notification in the *Official Gazette*, direct that any power exercisable by it under this Act, shall, subject to such conditions, if any, as may be specified in the notification, be exercisable also by an officer specially empowered in this behalf by the State Government.

Power of State Government to exempt any class of persons, institutions, etc.

[1][**16A.** The State Government may by a special or general order exempt any class of persons or institutions from the operation of all or any of the provisions of the Act or any rules made thereunder subject to such conditions as it may deem fit to impose.]

Saving of other laws.

17. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force relating to any of the matters dealt with in this Act.

Power to make rules.

18. (1) The State Government may, subject to the condition of previous publication, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

[2][(a1) prescribing the quantity of notified drug for the purposes of sample under the proviso to section 3A ;

(a2) prescribing the forms of licences granted under the Act and the conditions on which such licences may be granted, the forms of application for such licences and the fees payable in respect thereof ;]

(a) the maintenance and preservation by [3][dealers generally or by any dealer in particular] of records and accounts of all sale and purchase transactions made by them or the stocks of notified drugs in their possession and used ;

(b) the maintenance and preservation of prescriptions and other records by medical practitioners and [4][licensed retailers] ;

(c) the furnishing of any such information as may be required with respect to the business or profession carried on by any [5][dealers or medical practitioners] ;

(d) the inspection of any books of account or other documents belonging to or under the control of any [6][dealers or medical practitioners] relating to notified drugs ;

(e) any other matter which is to be or may be prescribed under this Act.

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[1] Section 16A was inserted by Bom. 37 of 1954, s. 9.
[2] Clauses (a1) and (a2) were inserted, *ibid*, s. 10 (1).
[3] These words were inserted for the original, *ibid*, s. 10 (2).
[4] These words were substituted for the words "dispensing chemists" *ibid*, s. 10 (3).
[5] These words were substituted for the original, *ibid*, s. 10 (4).
[6] These words were substituted for the original, *ibid*, s. 10 (5).